

## 5. The King's Ecclesiastical Commission.

**J**AMES the Second, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To the most Reverend Father in God, Our Right Trusty and Right Wellbeloved Councillor, William Lord Arch-Bishop of Canterbury, Primate of all England, and Metropolitan. And to Our Right Trusty and Right Well-beloved Councillor, George Lord Jeffereyes, Lord Chancellor of England. And to our Right Trusty, and Right Well-beloved Cousin and Councillor, Lawrence Earl of Rochester, Lord High Treasurer of England. And to Our Right Trusty, and Right Well-beloved Cousin and Councillor Robert Earl of Sunderland, President of Our Council, and Our Principal Secretary of State. And to the Right Reverend Father in God, Our Right Trusty and Well-beloved Councillor, Nathanael Lord Bishop of Down. And to the Right Reverend Father in God, Our Right Trusty and Well-beloved Thomas Lord Bishop of Rochester. And to Our Right and Trusty and Well-beloved Councillor, Sir Edward Herbert Kt. Lord Chief Justice of the Pleas, before Us to be holden, Assigned, Greeting. We for divers good weighty and necessary Causes Considerations, Us hereunto especially moving, of Our meer Motion and certain Knowledge, by force and virtue of our Supream Authority and Prerogative Royal, do Assign, Name, and Authorize by these Our Letters-Patent, under the Great Seal of England, You the said Lord Arch-Bishop of Canterbury, Lord Chancellour of England, Lord High Treasurer of England, Lord President of Our Council, Lord Bishop of Duresme, Lord Bishop of Rochester, and Our Chief Justice aforesaid, or any other Three or more of you, whereof You the said Lord Chancellour to be one, from time to time, and at all times during Our pleasure, to Exercise, Use, Occupy and Execute under Us all manner of jurisdictions, priviledges, and prebeminencies in any-wise touching or concerning any Spiritual or Ecclesiastical Jurisdictions, within this Our Realm of England, and Dominion of Wales, and to visit, reform, redresses, order, correct and amend all such abuses, offences, contempts, and enormities whatsoever, which by the Spiritual or Ecclesiastical Laws of this our Realm can or may lawfully be reformed, redressed, corrected, restrained, or amended, to the pleasure of Almighty God, and increase of virtue and the conservation of the peace and unity of this Realm. And we do hereby give and grant unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellour to be one, thus by us named, assigned, authorised, and appointed, by force of our supream authority and prerogative Royal, full power and authority, from time to time, and at all times during our pleasure, under us to exercise, use and execute all the premises, according to the tenor and effect of these our Letters-Patents, any matter or cause to the contrary, in any wise notwithstanding. And we do by these Presents give full power and authority unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellour to be one, by all lawful ways or means from time to time hereafter during our pleasure, to enquire of all offences, contempts, transgressions, and misdemeanours done and committed, and hereafter done and to be committed, contrary to the Ecclesiastical Laws of this our Realm, in any County, City, Borough, or other place or places exempt or not exempted, within this our Realm of England, and Dominion of Wales; and of all and every Offender or Offenders therein, and them and every of them to order, correct, reform, and punish, by censure of the Church: And also we do give and grant full power and

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any authority unto you, or any Three or more of you, as is *safore*said, whereof you the said Lord Chancellor to be one, in like manner as is *safore*said, from time to time, and at all times during our pleasure, to enquire of, search out, and call before you all and every Ecclesiastical person or persons, of what degree or dignity soever, as shall offend in any of the particulars before-mentioned, and them, and every of them to correct, and punish for such their misbehaviours and misdemeanours, by suspending or depriving them from all promotions Ecclesiastical, and from all functions in the Church, and to inflict such other punishments or censures upon them, according to the Ecclesiastical Laws of this Realm. And further we do give full power and authority unto you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, by virtue hereof, and in like manner and form as is *safore*said, to enquire, hear, determine, and punish all Incest, Adulteries, Fornications, Outrages, Misbehaviours, and disorders in Marriage, and all other grievances, great crimes or offences which are punishable, or reformatable by the Ecclesiastical Laws of this our Realm, committed or done or hereafter to be committed or done, in any place exempt or not exempt, within this our Realm, according to the tenor of the Ecclesiastical Laws in that behalf: Granting you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, full power and authority to order and award such punishment to every such offender, by censures of the Church, or other lawful ways, as is *safore*said; and further we do give full power and authority unto you, or any three or more of you, as is *safore*said, whereof you the said Lord Chancellor to be one, all and every Offender and Offenders in any of the premises, and also all such, as by you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, shall seem to be suspected persons in any of the premises, and them to examine, touching every or any of the premises which you shall object against them; and to proceed against them, and every of them as the nature and quality of the offence, or suspicion in that behalf shall require. And also to call all such Witnesses, or any other person or persons that can inform you concerning any of the premises, as you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, and them, and every of them, to examine upon their corporal oaths, for the better tryal and opening of the truth of the premises, or any part thereof. And if you, or any three or more of you, as is *safore*said, whereof you the said Lord Chancellor to be one, shall find any person or persons whatsoever obstinate or disobedient in their appearance before you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, at your calling and commandment, or else not in obeying, or in not accomplishing your orders, decrees and commandments, or any thing touching the premises or any part thereof, or any other branch or clause contained in this Commission, that then you, or any three or more of you, as is *safore*said, whereof you the said Lord Chancellor to be one, shall have full power and authority to punish the same person and persons so offending, by Excommunication, Suspension, Deprivation, or other Censures Ecclesiastical; and when any persons shall be convicted or prosecuted before you as *safore*said, for any of the causes above expressed, at the instance and suit of any person prosecuting the offence in that behalf, that then you, or any three or more of you as is *safore*said, whereof you the said Lord Chancellor to be one, shall have full power and authority to award such costs and expences of the Suit, as well to and against the party, as shall prefer or prosecute the said offence, as to and against any party or parties that shall be convicted according as their Causes shall require, and to you in Justice shall be thought reasonable. And further our will and pleasure is, that you assume our well-beloved Subject William Bridgman Esquire, one of the Clerks

of



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of our Council, or his sufficient Deputy or Deputies in that behalf to be your Register, whom we do by these presents depute to that effect, for the Registering of all your Acts, Decrees, and Proceedings, by virtue of this our Commission; and that in like manner, you, or any three more of you, whereof you the said Lord Chancellor to be one, by your discretions shall appoint one or more Messenger or Messengers, or other Officer or Officers necessary and convenient to attend upon you for any service in this behalf. Our will and express commandment also is, That there shall be two paper Books indented and made, the one to remain with the said Register, or his sufficient Deputy or Deputies, the other with such person, and in such places as you the said Commissioners, or any Three or more of you, whereof you the said Lord Chancellor to be one, shall in your discretions think most fit and meet; in both which Books shall be fairly entred all the Acts, Decrees, and Proceedings made or to be made, by virtue of this our Commission. And whereas our Universities of Oxford and Cambridge, and divers Cathedral and Collegiate Churches, Colledges, Grammar Schools, and other Ecclesiastical Incorporations, have been erected, founded, and endowed by several Progenitors, Kings and Queens of this Realm, and some others by their charity and bounty of some of their Subjects, as well within our Universities as other parts and places, the Ordinances, Rules and Statutes whereof be either imbefted, lost, corrupted, or altogether imperfect. We do therefore give full power and authority to you, or any Five more of you, of whom we will you the forenamed the Lord Chancellor always to be one, to cause and command in our Name, all and singular the Ordinances, Rules and Statutes of our said Universities, and all and every Cathedral and Collegiate Churches, Colledges, Grammar Schools, and other Ecclesiastical Incorporations, together with their several Letters Patents, and other Writings, touching or in any wise concerning their several Erections and Foundations, to be brought and exhibited before you, or any Five and more of you, as is aforesaid, whereof you the said Lord Chancellor to be one, willing, commanding, and authorizing of you, or any Five or more of you, as aforesaid, whereof you the said Lord Chancellor to be one, upon the exhibiting, and upon diligent and deliberate view, search and examination of the said Statutes, Rules, and Ordinances, Letters-Patents and Writings as is aforesaid, the same to correct, amend, and alter; and also where no Statutes are extant, in all or any of the aforesaid Cases, to devise and set down such good Orders and Statutes as you, or any Five or more of you, whereof you the said Lord Chancellor to be one, shall think meet and convenient, to be by us confirmed, ratified, allowed, and set forth, for the better order and rule of the said Universities, Cathedral and Collegiate Churches, Colledges, and Grammar Schools, erections, and foundations, and the Possessions and Revenues of the same, and as may best tend to the honour of Almighty God, increase of Virtue, Learning, and Unity in the said places, and the publick Weal and Tranquility of this our Realm. Moreover, our Will, Pleasure, and Commandment is, that you our said Commissioners, and every of you, shall diligently and faithfully execute this our Commission, and every part and branch thereof, in manner and form aforesaid, and according to the true meaning thereof, notwithstanding any appellation, provocations, privilege, or exemption in that behalf, to be had, made, pretended, or alledged by any person or persons resident or dwelling in any place or places exempt, or not exempt, within this our Realm; any Law, Statutes, Proclamations, or Grants, Priviledges, or Ordinances, which be, or may seem contrary to the Premises notwithstanding. And for the better credit, and more manifest notice of your so doing, in the Execution of this our Commission, our pleasure and commandment is, that to your Letters missive, Proseses, Decrees, Orders, and Judgments, for or by you, or any Three or more of you, as is aforesaid, to be awarded, sent forth, had, made, decreed, given or pronounced, as such certain publick places as shall be appointed by you, or by any Three more of you, as is aforesaid, for the due Execution of this our Commission, you or some Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, shall cause to be put and fixed a Seal, Ingraven with a Rose and Crown, and the Letter J: and figure 2 before, and the Letter R. after the same, with a ring circumference about the same Seal, containing as followeth, Sigillum Commissionarium Regiæ Majestatis ad Causas Ecclesiasticas. Finally, We will and command all singular other our Ministers and Subjects in all and every

place



## LETTERS.

place and places, exempt and not exempt, within our Realm of England, and Dominion of Wales, upon any knowledge or request from you, or any Three or more of you, as is aforefaid, to them, or any of them, given or made, to be aiding, helping or assisting unto your commandments, in and for the due executing your Precepts, Letters, and other Processes, requisite in and for the due Executing of this our Commission, as they and every of them under our pleasure, and will answer the contrary at their utmost perils. In Witness, &c.

### The Kings Letter.

Dated Monday, July the 14th.

Delivered at Fulham on Thursday, being the 17th of the same June in the Afternoon, by Mr. Atterbury, the Messenger.

JAMES R.

**R**ight Reverend Father in God, We greet you well. Whereas We have been Inform'd, and are fully Satisfy'd, that Dr. John Sharp, Rector of the Parish Church of St. Giles in the Fields, in the County of Middlesex, and in your Diocese, notwithstanding Our late Letter to the most Reverend Fathers in God the Archbishops of Canterbury and York, and Our Directions concerning Preachers, given at Our Court at Whitehall, the 15th of March, 1685. in the Second Year of Our Reign; yet he, the said Dr. John Sharp, in contempt of the said Orders, hath in some of the Sermons he hath since preached, presumed to make unbecoming Reflections, and to utter such Expressions as were not fit or proper for him; endeavouring thereby to beget in the Minds of his Hearers an Evil Opinion of Us and Our Government, by insinuating Fears and Jealousies to dispose them to Discontent, and to lead them into Disobedience and Rebellion. These are therefore to require and command you immediately upon Receipt hereof, forthwith to Suspend him from further Preaching in any Parish, Church or Chappel in your Diocese, until he has given Us Satisfaction, and Our further pleasure be known herein. And for so doing this shall be your Warrant: And so We bid you heartily Farewel. Given at our Court at Windsor, the 14th Day of June, 1686. in the Second Year of Our Reign.

By His Majesties Command.

Sunderland.

### The Bishop of Londons Answer.

Sent by Dr. Sharp to the Earl of Sunderland, then at Hampton-Court, upon Friday June 18. who could have no Answer.

To the Right Honourable, the Earl of Sunderland, Lord President, &c.

My Lord,

**I** Always have, and shall count it my Duty to obey the King in whatever Commands he lays upon me, that I can perform with a safe Conscience: But in this, I humbly conceive, I am obliged to proceed according to Law; and therefore it is impossible for me to comply; because, tho His Majesty commands me only to execute his pleasure, yet in the capacity I am, to do it, I must Act as a Judge; and your Lordship knows no Judge condemns any Man before he has Knowledge of the Cause, and has cited the party, However, I sent to Mr. Dean, and acquainted him with His Majesties Displeasure, whom I find so ready to give all Reasonable Satisfaction, that I have thought fit to make him the Bearer of this Answer, from him that will never be unfaithful to the King, nor otherwise than, My Lord, your Lordships most humble Servant, H. London.

On Sunday after Dr. Sharp carried a Petition to Windsor, which was not admitted to be Read. Which is as follows.

To the Kings Most Excellent Majesty, the Humble Petition of John Sharp, Clerk Sheweth,

**T**hat nothing is so afflictive to Your Petitioner, as his Unhappiness to have incurred your Majesties Displeasure, which he is so sensible of, that ever since your Majesty was pleased to give notice of it, he hath forborn all publick Exercise of his Function, and still continues so to do.

Your Petitioner can with great Sincerity affirm, that ever since he hath been a Preacher, he hath faithfully endeavoured to do the best Service he could in his place and Station, as well to the late King, your Royal Brother, as your Majesty, both by preaching and otherwise.

And so far he hath always been from venting any thing in the Pulpit tending to Schism or Faction, or any way to the Disturbance of your Majesties Government, that he hath upon all occasions in his Sermons, to the utmost of his power, set himself against all sorts of Doctrines and principles that look that way: And this he is so well assured of, that he cannot but apprehend that his Sermons have been very much misrepresented to Your Majesty.

But if in any Sermon of his, any Words or Expressions have unwarily slipped from him, that have been capable of such Constuctions, as to give Your Majesty Cause of Offence, as he solemnly professes he had no ill Intention in those Words or Expressions, so he is very sorry for them, and resolves for the future to be so careful in the Discharge of his Duty, that Your Majesty shall have Reason to believe him to be Your most most Faithful Subject.

And therefore he earnestly Prayeth, that Your Majesty out of Your Royal Grace and Clemency, would be pleased to lay aside the Displeasure You have conceived against Your Humble Petitioner, and restore him to that Favour which the rest of the Clergy enjoy under Your Majesties Gracious Government.

So shall Your Petitioner ever Pray, &c.

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A  
**True Narrative**  
 Of all the  
**PROCEEDINGS**  
 Against the  
**Lord Bishop of London,**  
 In the Council-Chamber at *White-hall*, &c.  
 Mercurii 4 die August, 1686.

Present in Council,

*Lord Chancellour, Lord Bishop of Durham, Lord Treasurer, Lord Bishop of Rochester, Lord President, Lord Chief Justice Herbert.*

*Upon my Lord Bishops appearing before them, according to a Summons sent unto them, the Lord Chancellour Jeffreys began, viz.*

*Lord Chancellour.* **M**Y Lord Bishop of *London*, the Lords here present, have received Orders from the King to inspect all Ecclesiastical Affairs and Persons; and hath commanded us to cite you before us; and I desire you would give a positive and direct answer to it: What was the reason you did not suspend *Dr. Sharp*, when the King commanded, and sent you express Order so to do, and told you what it was for, *viz.* for Preaching Seditiously, and against the Government.

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*Lord*



*Lord Bishop.* I have received such an Order ; and if what was done in that affair was done amiss, and contrary to my duty, it was my ignorance and inadvertency, and not a wilful fault : I have been always ready to express my duty to his Majesty, and if in this particular I have not complied, it was, as I was told, I could not. I was not so shallow as to go on my own head, but took the best advice I could get : I consulted those whose business it is more perfectly to understand these proceedings, all told me I could not legally do it, but by way of express, and hearing him.

*Lord Chanc.* *Ignorantia Jurat non excusat* ; you ought to have known the Law, and it was a wonder you did not : The King is to be obey'd, and if you have any reason to shew in this particular, we are ready to hear you.

*Lord Bishop.* I knew not what would be laid to my Charge, and therefore was not provided to make such a Defence as I might have done ; but if your Lordships will give me a Copy of your Commission, and a Copy of my Charge, and allow me some time, I will endeavour to give your Lordships satisfaction.

*Lord Chanc.* My Lord, I would not mis-interpret your words, but shall desire you to explain their meaning : If by desiring a copy of our Commission, you design to quarrel with the Jurisdiction and Legality of the Court, I have another answer for you ; but till I know your meaning here my answer is, That no copy of the Commission can be granted, and it is unreasonable to desire it, it is upon Record, all the Coffee-houses have it for a penny a piece, and I doubt not but your Lordship has seen it.

*Lord Bishop.* I have never seen it ; nor have I desir'd it for such ends to dispute the legality of it : But your Lordship knows it is a thing altogether new to this Generation, and it may be something may be found in it whereby I may be instructed and directed in my answer, and behaviour in the matter : But, my Lord, if I may not have a copy of it, will your Lordships please I may either read, or hear it read.

*Lord Chanc.* That is a thing I cannot grant of my self, I must ask my Lords Commissioners Judgment ; and if you will be pleased to withdraw you shall hear it.

*The Bishop and all the Company withdrew for a quarter of an hour, then returning, the Lord Chancellour said,*

My



My Lord, all the Commissioners are of opinion that your Request is not to be granted, and that it is unreasonable : Might every one that appears here challenge the sight of our Commission, and the Reading of it, all our time will be spent in the Reading, and we have something else to do.

The Proceedings of Courts in this kind are never by Libel and Articles; *sapientem in succinctum ore tenus*, by word of mouth only; and it is a short question I ask, Why you did not obey the King.

*Lord Bishop.* It is a short Question, but requires more words to Answer it. I pray your Lordships to consider I am a Peer, a Bishop, and have a Publick Trust, though unworthy, under a Publick Character; and I would behave my self as becomes one in these capacities.

*Lord Chanc.* We know very well your Lordships Quality and Character, and are willing to shew all due respect to your Lordship, but yet we must have a due regard for the King and Government too : His Majesty must not be neglected.

*Lord Bishop.* My Lord, I suppose there is no Appeals from the Court, and when a man is to be condemned at one Bar, and is in danger of being knockt at one blow, you would think it unreasonable he should not have some time to make his Defence.

*Lord Chanc.* My Lord, I suppose their Lordships will be willing to grant some time : I pray what time does your Lordship desire.

*Lord Bishop.* My Lord, it is the Assize-time, and most of the Council, upon some occasion or other, (either business or diversion) are in the Countrey : I pray you, my Lord, I may have till the beginning of the Term.

*Lord Chanc.* Hah ! That's unreasonable : His Majesties business cannot admit of such delays ; methinks a week should be enough : What says your Lordships, Is not a week enough ?

*The Commissioners being asked, signified by the Chancellour that a week was enough.*

*Lord Bishop.* Since your Lordship will grant no more I will ask no more.

*Lord Chanc.* Adjourn until Munday next, the Ninth of August, 1686.

Upon



*Upon the Tenth day his Lordship came, attended with his Nephew, the Earl of Northampton, his Brother-in-Law Sir John Nicholas, and his Brother Sir Francis Compton, &c.*

There being present in Council the same as before in the same proceedings.

*Lord Chanc.* **M**Y Lord, we are here to hear to your Reasons.

*Lord Bishop.* My Lord, I have lost no time for preparing my Answer, but am not so ready as I might have been, because I could not light of the Commission your Lordship told me was upon Record, and in every Coffee-house, but imployed a whole Week to search for it, and could not have a sight of it until last Night; if your Lordship doubts the truth of this, I have the person ready to make Oath here of it.

*Lord Chanc.* My Lord, you are a person of Honour, and we will not question the truth of what you say, there needs no Oath. But my Lord, I must tell you, that we will not admit of any quarrelling with our Commission, we are well assured of the legality of it, otherwise we would not be such Fools as to sit here.

*Lord Bishop.* My Lord, I have other Reasons why I desire a sight of your Commission; it may be it may not reach me, being a Peer and a Bishop; and it may be it may not reach this particular case, and therefore I desire a sight of it, in regard I could not see it until the last Night. I have not had time to take advice what to answer; if your Lordship will not be satisfied, I must give such an answer as I have prepared, but it is my desire to have longer time for it.

*Lord Chanc.* Is this all you have to say?

*Lord Bishop.* This is the first thing: I do not desire to prolong the time, the necessity of the case requiring it, the Council being out of Town in whom I think to confide.

*Lord Chanc.* If your Lordship will withdraw, we will give you an answer.

*He withdrew for a quarter of an hour.*

My



My Lord, as I formerly told you, we will not endure any quarrelling at our Commission; it will be an odd thing in us to give you time to pick holes in it, but we are willing to pay all due respects to your Lordship: What time do you require?

*Lord Bishop.* I shall submit to your Lordships; but I hope a fortnight will not be unreasonable.

*Lord Chanc.* Agreed: You shall have it until to morrow fortnight in the morning. *To which my Lord Chancellor added,*

My Lord, when I told you our Commission was to be seen in every Coffee-house, I did not speak with any design to reflect on your Lordship, as if you were a hunter of Coffee-houses, I abhor'd the thoughts of it, and intended no more by it but what was common in the Town.

*Note, When the Bishop spake concerning the Commissions, Sir Thomas Charges spake with a loud Voice, saying, Well put, well put; my Lord speaks nothing but truth. There was also another Gentleman, Sir John Lowther, of Lincolnshire, who as he was coming away in the Crowd, said, There are some who have represented me as a Papist, but the contrary shall appear; I will not be affraid, nor ashamed, to Vindicate my Lord Bishops Cause, before the Commissioners themselves.*

Tuesday, August 1686.

There being present in Council the same as in the former proceedings: The Lord Bishop attending, the proceedings were as follow.

*Lord Chanc.* MY Lord, we are now ready to hear your Lordships Answer.

*Lord Bishop.* My Lord, notwithstanding the time hath been very short, considering the weightiness of the matter, and the absence of many of the Learned Council, I have taken what advice I could, and have consulted those that are very Learned in the Laws. I hope there will be no Mis-interpretation of my Words, I do not intend any thing which is derogatory to the Kings Supremacy; that is undutiful to His Majesty, or Disrespectful to

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your Lordships. My Council tells me, that your proceedings in this Court, are directly contrary to the Statute-Law, and are here to plead it if your Lordships will admit them.

*Lord Chanc.* We will neither hear your Lordship nor your Council in the matter ; we are sufficiently satisfied of the legality of our Commission, as we often told you.

*Lord Bishop.* My Lord, I am a Bishop of the Church of *England*, and by all the Law in the Christian Church, in all Ages, and by the particular Law of this Land, I am, in case of offence, to be Tried by my Metropolitan and Suffragans ; I hope your Lordship will not deny the Right and Priviledge of Christian Bishops.

*Lord Chanc.* My Lord, you know our proceedings are according to what has been done formerly, and that we have an Original Jurisdiction ; this is still questioning our Court.

*Lord Bishop.* It is partly.

*Lord Chanc.* Nay, it is absolutely so.

*Lord Bishop.* My Lord, I hope you will interpret every thing in your Commission in favour of the person that is brought before you : I humbly conceive that your Commission doth not extend to the Crimes laid to my charge, for you are to censure faults which are committed : This that I am accused of, was before the Date of your Commission.

*Lord Chanc.* I confess there is such a clause, but those are general clauses that take in things that are past, as well as those that are to come ; hath your Lordship any thing more ?

*Lord Bishop.* My Lords, protesting in my own Right, to the Laws of the Realm, as a Subject. and the Rights and Priviledges of the Church, as a Bishop, I shall, with your Lordships leave, give you my answer.

*Which was accepted ; and the Bishop withdrew, and left Dr. Sharp's Petition, which the King had refused to accept.*

*Lord Chanc.* My Lord, we have read the Paper.

*Lord Bishop.* My Lords, it is Dr. Sharp's Petition to the King.

*Lord Chanc.* My Lord, be pleas'd to take it again, we are not concerned in it ; will you please that your Lordships answer be read ?

*Lord Bishop.* Yes, if your Lordship please. My Lord, I have this to say further, What I did in this matter was *Jurisperitorum Concilio*. I consulted my Council, who is the Judge of my Courts, as well as others ; and the Law says, That what is done by the advice of Council, shall not be interpreted to be done maliciously, or obstinately. The Law, in this case, requires, that if a Prince require

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require a Judge to execute an order, which is not agreeable to the Law, he shall *Rescribere & Reclamere Principi*: Now, my Lord, I conceived I acted in this according to my Duty, for I wrote back to my Lord President, in as becoming words as I could; and acquainted him, that an Order to suspend before Citation and hearing the person, is against Law, and expected his Majesties further pleasure.

In the next place, my Lords, I did in effect what the King commanded to be done, for I advised Dr. *Sharp* to forbear Preaching, till His Majesty had received satisfaction concerning him; and accordingly, he hath forborn in my Diocess.

*Lord Chanc.* My Lord, will you have your Paper read?

*Lord Bishop.* Yes, if your Lordship please; which contained the Kings Letter, and the Bishops answer thereto.

*Lord Chanc.* Hath your Lordship any more to say?

*Lord Bishop.* My Lord, I desire your Lordship would hear my Council, by whom you may have more clear and full satisfaction concerning what I have said.

*Whereupon the Bishop was desired to withdraw, and after half an hour, he and his Council were called in; who were Dr. Oldish, Hodges, Price, and Newton. A brief account of what they pleaded.*

*Dr. Oldish.* My Lord, the question before your Lordship, is, whether the Bishop of *London* hath been Disobedient to the Kings command; concerning which it must be considered,

*First*, What was commanded to be done.

*Secondly*, What he did in Obedience to it.

*Thirdly*, What Judgment ought to have been given by him.

It is apparent by the Letter, that the Letter that the King did not take cognizance of the cause, for the Words are (being in form) That Dr. *Sharp*, &c. so that it could not be an absolute Suspension, for that supposeth a proof of the Crime charged upon him: Then let us consider the Words themselves:

*That you Suspend him from Preaching.* Now, my Lords, we have no such thing in our Laws, so that the meaning must be Silencing of him. Where there is an absolute Suspension, there ought to be Citation, form of Proceeding, Judgment and Decree; to act otherwise is contrary to the Law of God, of Nature, of all Nations in all Ages, and was never known in the World.

*Lord Chanc.* I am loth to Interrupt you, but I must tell you, this



this is an unnecessary Harangue; we know that it was not an absolute Suspension, but the question is, Whether the Bishop could Suspend him from Preaching?

*Oldish.* Then, my Lords, I have gained another Point; if it were only Silencing him, the Question is, Whether the Bishop did not execute the Kings Commands? I think he did, and in such a Method as is observed in our Courts.

When any eminent person is accused, the Judges send to him by a Letter, and if he appears, and complies with the Judges order, the Law is satisfied.]

*Judicium redditur invitatis non involentes:* The Bishop did send for Dr. Sharp, shewed him the Kings Letter, advised him not to Preach till the King had received satisfaction; in which he promised to observe his Lordships command, and hath not Preached to this day, so that His Majesties command was in effect fulfilled. My Lord, there is the like proceeding in the Common Law, for if an Attorney takes a mans Word for his appearance, there lyes no Action against the Attorney.

*Lord Chanc. Cujus contrarium:* There lyes an Action of Escape against the Attorney—

*Dr. Hodges.* My Lotds, the matter of fact hath been stated, and the question is, Whether the Bishop hath been disobedient to the Kings Command? It appears that he has not: Because upon the receipt of his Majesties Letter, he requir'd the Doctor not to Preach, and he hath obeyed him in that which the King commanded. To suspend him the Bishop could not do, the Act of Suspension is a Judicial act: The King writes to him as to a Bishop, to suspend as a Bishop and as a Judge, which could not be done without the hearing of the Cause. If the Prince sends to a person that is not a Judge, that is only in a Ministerial office, that office is to execute his commands: But when the King commands a Judge, he commands him to act as a Judge. This is no light matter the Dr. is accus'd of; it is for Preaching Sedition and Rebellion, which requires a severe Censure. And if the Bishop, as a Judge, had Suspended him, he had begun at the wrong end, for this has been Judgment before pressed: In this Cause there ought to have been a Citation, our Books giving many Instances which would be too tedious to your Lordships--- I will give this one: The Emperours proceedings against the King of Sicily, upon Information which he had received, and giving him no Citation, the King appealed to the Pope, who declared the proceedings to be void; and that it was against the law of Nature,



ture, which is above all positive Laws, to pass Sentence before Citation. This is the method of proving before all Courts, and I humbly conceive it is, and will be, the method of this Court; for otherwise, the Bishop need not to have been cited before you. The Bishop has done what was his Duty, he was bound to return his Reason to the King, why he did not do that which he was commanded, and to expect his further answer; which was done. I affirm, That if a Prince, or a Pope, command a thing which is not lawful, it is the Duty of a Judge *Rescribere*; which is all he can do Quoting his Author.

*Dr. Price.* The Question is *ut supra*: A Citation is *Jure Gentium*, and can never be taken away by any positive Command or Law whatsoever: The Bishop hath obeyed the King so far, as that he could not Rescribe, and expecting His Majesties further pleasure. If the Bishop could have suspended him, it must have been done in *Agnes*; but in regard it was only silencing him, which was requir'd, it might be done in a private room: The advice of a Bishop is in some sense an admonition, which is a Judicial Act, and this was given by a Bishop, and obeyed by the Doctor.

*Newton.* My Lord, the question is not *ut supra*, the Bishop hath not been disobedient. As in Nature no man can be desired to do that which is impossible, so no man can be obliged to do an unlawful act. (*Id non fit quod legitime fit.*) This Rule obliges all men, at all places, and at all times. The charge against *Dr. Sharp* is of a very high Nature; and he desired to be heard before he was condemned.

My Lords, the Bishops are *Custodes Canonum*, and therefore must not break themselves: I affirm, the Bishop was so far from being Disobedient, that he was Obedient to the King: For where he did *Rescribere*, and heard not the further pleasure of the King returned, he ought to conclude, the King was satisfied with what he had written, according to his Duty, and the King had altered his commands. A Citation, as your Lordships have heard, is according to all Laws, in all Places, in all Judicial Acts; there is something to be done according to Law, and somewhat according to the Discretion of the Judges, and for that Reason as well as these, the Offenders ought to be cited before him; that which was in the Bishops power to do he hath done, and it was in effect what the King commanded to be done.

*Lord Bishop.* If through mistake I have erred in any circumstances, I am ready to begg His Majesties Pardon, and shall be ready to make any reparation I am capable.

D

Lord



*The Bishop withdrew for half an hour, then was called in.*

*Lord Chanc.* We will be here again on *Wednesday* next, and I desire your Lordship to be here again about 10 in the Forenoon.

*Lord Bishop.* My Lord, I desire that care may be taken concerning the minutes which are taken by the Clerks of what have passed, and that I may not be misrepresented to the King by the mistake of the Pen-man.

*Lord Chanc.* My Lord, you need not fear it; I hope you have a better Opinion of us; there shall be no advantage taken by them or us.

*Bishop Rock.* There shall be no advantage taken, but all imaginable care taken concerning it.

*Note, When the Concellours were Pleading, Dr. Pinfold, the Kings Advocate, stood at the Chancellors Elbow and took Notes, by which it was expected that he should make a Reply, but he said nothing; and 'tis supposed that he staid with the Council, when the Bishop withdrew and gave them Reasons for his silence.*

**Die Lunæ, 6th September, 1686.**

There being present in Council the same as in the former proceedings.

*Lord Chanc.* **M**Y Lord, pray sit down: You were desired to appear this day to hear your Sentence, which (to prevent mistake) we have ordered to be put in writing.

*Lord Bishop.* My Lord, may I have leave to speak before Sentence is read?

*Lord Chanc.* My Lord, we have heard you and your Council already.

*Then the following Instrument whereby the Bishop of London was Suspended, was by the Commissioners order, read by Mr. Bridgman, their Lordships Register.*

His Majesty's Affairs

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**By His Majesties Command for Ecclesiastical Affairs.**

**W**Hereas Henry, Lord Bishop of London, hath been convened before us, for his Disobedience, and other his Attempts, mentioned in the Proceedings of this Cause; and the said Bishop being fully heard thereupon, We have thought fit, upon mature consideration of the matter, to proceed to this Our definitive Sentence, Declaring, Decreeing and Pronouncing, that the said Henry, Lord Bishop of London, shall for his said Disobedience and Contempt be Suspended, during His Majesties Pleasure; and accordingly, we do by these presents, Suspend him the said Lord Bishop of London, Peremptorily Admonishing and Requiring him hereby, to abstain from the Function and Execution of his Episcopal Office; and from all Episcopal and other Ecclesiastical Jurisdiction, during the said Suspension, upon pain of Deprivation and Removal from his Bishoprick.

Given under our Hand and Seal the 6th day of September, 1686. Sealed with the Seal of the Courts C. 7 2. Rose, &c. Crown with this Inscription round it, viz. *Sigillum Commissionarium Regia Majestatis ad Causas Ecclesiasticas:*

Signed by no body at all.

Some



Some days since one of the Messengers attending the Court, deliver'd to the Dean of *St. Pauls*, a Warrant, the Tenour whereof followeth :

By His Majesties Commissioners for Ecclesiastical Affairs.

**W** Hereas We have given Sentence of Suspension against Henry, Lord Bishop of London, a Copy of which Sentence, under our Seal, is hereunto affixed. We have thought fit, and do hereby enjoin and require you, to cause the said Sentence to be affixt on the Door of that Chapter-House, and on the place now called the South Door of the said Church; to the end, that publick Notice may be taken of the said Suspension. And you are to certify us, under your Common Seal, of the due Execution of what is hereby required.

At our Council-Chamber at *White-Hall*, on Tuesday, the 28th Instant *Septemb.* at 11 of the Clock in the Morning. Given under our Seal, this Day of *Sept.* 1686. Sealed with the same Seal as the Sentence, but no Persons Names: Subscribed to the Dean and Chapter of *London*.

Given under our Hand and Seal the 28th day of September 1686. Signed with the Seal of the Court of the Bishop of London, and the Commissioners for Ecclesiastical Affairs.

**F I N I S.**

Signed by no body at all.

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